

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

AMEREN TRANSMISSION COMPANY OF ILLINOIS)	
)	
Petition for a Certificate of Public Convenience and)	
Necessity, pursuant to Section 8-406.1 of the Illinois)	
Public Utilities Act, and an Order pursuant to Section 8-)	Docket No. 12-0598
503 of the Public Utilities Act, to Construct, Operate and)	
Maintain a New High Voltage Electric Service Line and)	
Related Facilities in the Counties of Adams, Brown,)	
Cass, Champaign, Christian, Clark, Coles, Edgar, Fulton,)	
Macon, Montgomery, Morgan, Moultrie, Pike,)	
Sangamon, Schuyler, Scott and Shelby, Illinois.)	

**AMEREN TRANSMISSION COMPANY OF ILLINOIS’
MOTION TO STRIKE CERTAIN INTERVENORS’
UNTIMELY ALTERNATE ROUTE PROPOSALS**

Pursuant to Rule 200.190 of the Illinois Commerce Commission’s (Commission or ICC) Rules of Practice and Procedure, 83 Ill. Adm. Code § 200.190, Ameren Transmission Company of Illinois (ATXI) respectfully requests issuance of an order striking the untimely alternate transmission line route proposals filed with the Direct Testimony¹ of Intervenor Gan Properties, LLC, Loren Wiese on behalf of Wiese Farms, George Orin on behalf of Rural Clark and Edgar Counties Concerned Citizens (RCECCC), and Paula Cooley on behalf of Macon County Property Owners (Macon). Each of these intervenors proposed alternate routes in their direct testimony, after the December 31, 2012 and February 13, 2013 deadlines established by the Administrative Law Judges (ALJs) for such submissions. In addition, Intervenor Donna Allen included statements in favor of using existing transmission line rights-of-way and highway corridors in both her Petition to Intervene and Direct Testimony, but failed to timely submit her

¹ ATXI notes the direct testimony of Donna Allen and George Orin have not been properly filed on the Commission’s e-docket as of the date of this Motion.

proposal or a list of affected landowners, as required by the ALJs' Case Management Plan. Her Proposal should be stricken as well.

None of these intervenors has sought leave from the Commission to file their alternate route proposal out of time, nor have they explained their delay and apparent disregard for the ALJs' Case Management Plan. More importantly, their proposals appear to raise the possibility of transmission line routes across properties whose owners have not received any notice from the Commission. For these and the reasons set forth below, the Commission should strike the alternate route proposals contained within the testimony of intervenors Gan Properties, LLC, Loren Wiese on behalf of Wiese Farms, George Orin on behalf of RCECCC, Paula Cooley on behalf of Macon, and Donna Allen.

INTRODUCTION

On December 14, 2012, the ALJs adopted a Case Management Plan (CMP) governing this proceeding. (Notice & Case Management Plan, p. 1 (Dec. 14, 2012), Notice & Revisions to Case Management Plan, p. 1, (Jan. 25, 2013).) The CMP established a detailed schedule, including the December 31, 2012 and February 13, 2013, deadlines for submission of alternate route proposals, and specific instructions that all parties identifying an alternate route “must provide names and addresses of affected landowners if such landowners are not already affected” by a route already proposed by any other party. The purpose of the CMP was to establish an orderly process for submission of alternate routes, the notification by the Commission of affected landowners, and the subsequent filing of testimony, and it must be honored. *See, e.g.* *Commonwealth Edison Co.*, Notice of ALJ's Ruling, Docket 12-0298 (June 1, 2012) (denying untimely petition to intervene and striking filed “comments” not provided for by the established case schedule); *Preston Utils. Corp.*, Order, Docket 80-0271, 1981 Ill. PUC LEXIS 46, *3 (Feb. 19, 1981) (granting motion to strike untimely filing); 83 Ill. Adm. Code § 200.25, 200.370.

Specifically, the CMP required all intervenors who had not previously identified an alternate route to do so by February 13, 2013. (Revisions to Case Management Plan, p. 2 (Jan. 25, 2013).) Additionally, any intervenor that had previously identified alternate routes could not identify any additional routes.

DISCUSSION

Gan Properties, LLC, Wiese Farms, and RCECCC intervened well after the ALJs had issued the CMP.² (*See* Petition to Intervene of Gan Properties, LLC (Mar. 13, 2013); Petition to Intervene of Wiese Farms (Mar. 28, 2013); Petition to Intervene of RCECCC (Feb. 13, 2013).) Upon intervention, each of the parties above was bound by any prior rulings by the ALJs, including the CMP. 83 Ill. Adm. Code § 200.200 (e); *GTE North, Inc.*, Docket 93-0191, Order, 1993 Ill. PUC LEXIS 488, *5-6 (Dec. 15, 1993) (finding putative intervenor bound to accept the record as of the time of its intervention). RCECCC readily acknowledged this obligation in its Petition to Intervene. (Petition to Intervene of Rural Clark and Edgar Concerned Citizens (Feb. 13, 2013), p. 2.)

Yet, the direct testimony submitted on behalf of each of these intervenors on March 29, 2013 disregards the CMP's deadline for submission of alternate route proposals. Gan Properties, Wiese Farms, and RCECCC each proposed an alternate route that was not previously proposed and would impact landowners who have not previously received notice from the Commission. (*See* Direct Testimony of Kenneth L. Skolnik, on behalf of Gan Properties, LLC ¶¶12-14 (“In furtherance of this objection Gan Properties proposes the following route...”); Direct Testimony of Loren Wiese on behalf of Wiese Farms ¶ 4 (“moving the proposed transmission line one-half mile or one mile south of the proposed Primary Route”); Direct Testimony of George Orin on

² The ALJs issued a ruling adopting a Case Management Plan on December 14, 2012. (Notice of ALJs' Ruling & Case Management Plan (Dec. 14, 2012)). The Case Management Plan was revised on January 25, 2013. (ALJ Notice & Revision to Case Management Plan (Jan. 25, 2013)).

behalf of RCECCC ¶ 4(A) (“the path of one of these [depicted] existing lines ... should be used to build any new power lines”).) The Commission should strike these untimely alternate route proposals. Ms. Cooley appears to propose an alternate route along an abandoned railroad in her direct testimony that was not properly proposed previously. Macon’s request for additional time to identify an alternate route along the abandoned railroad line was never acted upon. (*See* Submission of Alternate Route (Dec. 28, 2012); Notice of ALJ’s Ruling (Jan. 2, 2012); Supplement to Submission of Alternate Route (Jan. 3, 2012).) No landowners have been identified along this alternate route either. Thus, Ms. Cooley’s testimony about the railroad should be stricken accordingly.

Donna Allen intervened in this proceeding in December 2012. Although Ms. Allen’s Petition to Intervene included an alternate route proposal, Ms. Allen later disclosed in response to data requests issued to her by ATXI that she had “withdrawn” her proposal. (Responses to ATXI-Allen 1.28, 1.30-1.39.) However, her Direct Testimony reiterates her proposal that ATXI utilize certain existing transmission and highway-corridor rights-of-way. To date, Ms. Allen has not submitted a list of landowners that would be affected by this proposal. Although it is not entirely clear what routes Ms. Allen may be proposing, to the extent she calls for adoption of an alternate, she has not proposed such a route in accordance with the CMO and provided a list of impacted landowners.

The large number of parties in this proceeding demands strict adherence to the case schedule and filing deadlines in order to ensure the efficiency of the proceeding, especially with respect to alternate route proposals. Late-filed alternate route proposals pose difficult procedural issues, since newly-identified routes may impact new landowners who may also wish to intervene; these new landowners may wish to identify potential alternate routes, and so forth.

The CMP set a deadline to for route proposals of December 31, 2012 and February 13, 2013 to address these issues. Inclusion of alternate route proposals for the first time in direct testimony violates this established schedule under the CMP. These intervenors, without any explanation for their disregard of the CMP, have attempted to add alternate route proposals to the record in this case at least six to *twelve* weeks after they were due. The landowners potentially impacted by these proposals have not been notified by the Commission, and even under the most of optimistic of scenarios, would have no opportunity to submit testimony or otherwise register their concerns. These untimely proposals should therefore be stricken as follows:

- Direct Testimony of Kenneth L. Skolnik, on behalf of Gan Properties, LLC: Paragraph 12 beginning at “In furtherance of...” through and including Paragraph 14, and Exhibits F-1, F-2, F-3, and G.
- Affidavit of Loren Wiese, on behalf of Wiese Farms: Answer to Question 4 beginning at “For instance . . .” through and including “irrigation systems.”
- Direct Testimony of George Orin, on behalf of RCECCC: Answer to Question 4, Part A.
- Direct Testimony of Paula Cooley, on behalf of Macon: Paragraph 7 beginning at “See map of . . .” through and including “to future generations”, and Exhibit C.
- Direct Testimony of Donna Allen: p. 8, ln. 208 – p. 9, ln. 221.

WHEREFORE, for the reasons set forth above, ATXI respectfully requests that the Commission strike the untimely alternate route proposals filed with the Direct Testimony of Intervenor Gan Properties, LLC, Loren Wiese on behalf of Wiese Farms, George Orin on behalf of Rural Clark and Edgar Counties Concerned Citizens, Paula Cooley on behalf of Macon County Property Owners, and Donna Allen, and for such other further relief as the Commission deems just and reasonable.

Dated: April 11, 2013

Respectfully submitted,

Ameren Transmission Company of Illinois

/s/ Albert D. Sturtevant

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CERTIFICATE OF SERVICE

I, Albert Sturtevant, an attorney, certify that on April 11, 2013, I caused a copy of the foregoing *Motion to Strike Certain Intervenors' Untimely Alternate Route Proposals* to be served by electronic mail to the individuals on the Commission's Service List for Docket 12-0598.

/s/ Albert Sturtevant

Attorney for Ameren Transmission
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